

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

LPA No. 353/2024

Reserved On: 26th of February, 2026.
Pronounced On: 12th of March, 2026.
Uploaded On: 12th of March, 2026.

Whether the operative part or
full Judgment is pronounced: **Full.**

1. **Union Territory of J&K,**
Through Principal Secretary to Government,
Power Development Department (now Corporation),
Civil Secretariat, J&K, Srinagar/ Jammu.
2. Chief Engineer, Jammu & Kashmir Power Corporation
Ltd. (JKPCL), Srinagar.
3. Executive Engineer, Jammu & Kashmir Power
Corporation Ltd. (JKPCL) Division-III, Bemina,
Srinagar.
4. Accounts Officer, Jammu & Kashmir Power
Corporation Ltd. (JKPCL), Bemina, Srinagar.

... Appellant(s)

Through: -

Mr Faheem Nisar Shah, Government Advocate.

V/s

1. **Farooq Ahmad Zargar, Age: 60 Years**
S/O Late Gh Mohi-ud-Din Zargar
R/O Model Town Sopore, District Baramullah.
... **Contesting Respondent**
2. Principal Accountant General (A&E), through its Senior
Accounts Officer (A&E) PNR-3 C/O Principal
Accountant General, J&K, Srinagar.
... **Proforma Respondent**

Through: -

Mr L. A. Latief, Advocate for R-1; and

Mr B. A. Zargar, Advocate for R-2.

CORAM:

**HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE**

(JUDGMENT)

SHAHZAD AZEEM-J:

01. The Appellants have thrown challenge to the Order dated July 24, 2024 passed by the learned Single Judge [“the Writ Court”] in WP (C) No. 1261/2023 titled ‘Farooq Ahmad Zargar v. UT of J&K and Ors.’, whereby the Writ Court directed the Principal Accountant General to authorize the pension as well as post-retiral benefits to the Respondent No.1 in accordance with pay fixed in his favour by his parent Department.
02. The central issue in the present appeal concerns the grant of benefit of SRO 149 of 1973. Before the Writ Court, the Appellants-Respondents had taken a position that the issue involved in the matter was pending consideration before the Hon'ble Supreme Court. It is not in dispute that during the pendency of the present appeal, the Apex Court has now adjudicated upon the said issue. The controversy, therefore, stands settled and the present appeal is required to be decided in terms of the Order passed by the Hon'ble Supreme Court. In view of this development, we do not propose to burden this Judgment with an elaborate discussion of all the factual and legal pleas raised by the parties and shall delineate only those facts which are necessary for the present appeal.
03. Succinctly stated, the Respondent No.1, in December, 1977, initially came to be engaged as PDL/ TDL (Permanent Daily Labour/ Temporary Daily Labour) in the Power Development Department. Upon completion of more than eight years of service, the Respondent No.1 was regularized as Helper in the pay scale of Rs. 345–460 vide Order No. DC/PD/Budget/V/203 of 1985 dated October 28, 1985 issued by the Development Commissioner, Power. The Respondent No.1 possessed ITI qualification in Electrician trade and, in view of the said qualification, his pay scale was temporarily upgraded to Rs. 1150–2050 vide Order No.

CE/M&RE/61 of 1991 dated August 13, 1991 with effect from April 25, 1990, subject to the final outcome of the proceedings pending before the High Court. Subsequently, the benefit of the revised grade Rs. 1400–2600 was stopped in terms of Circular No. PDD/VI/ITI/90 dated April 08, 1992 for the period from May, 1992 to May, 1993. Thereafter, the Respondent No.1 superannuated from service on February 28, 2023, after rendering long years of service in the Department and, as such, his pension case was thereafter forwarded by the Pay and Accounts Officer, JKPCCL, Srinagar to the office of the Accountant General, J&K for settlement of pensionary benefits. The office of the Principal Accountant General (A&E), J&K returned the pension case with the observation that the pay of the Respondent No.1 was required to be re-fixed after excluding the benefit of SRO 149 of 1973, on the ground that the issue regarding grant of such benefit was stated to be pending consideration before the Hon'ble Supreme Court.

04. The Appellants contend that since the Respondent No.1 had availed the benefit of SRO 149 of 1973 under the cover of Government Order No. 309-PDD of 1995 dated August 30, 1995, despite the fact that he was not a party to the litigation concerning SRO 149. According to the Appellants, upon consideration of representations and examination of the legal position, the Department concluded that SRO 149 of 1973 stood superseded by subsequent pay revision rules, including SRO 91 of 1982, SRO 370 of 1987 and SRO 75 of 1992, thereby rendering the provisions of SRO 149 inoperative. It is further contended that SRO 381 of 1981, by virtue of its repealing clause, repealed all earlier rules inconsistent with the Recruitment Rules framed in 1981, thereby nullifying the effect of SRO 149 of 1973. The appellants also submit that Government Order No. 309-PDD of 1995 was intended only as a one-time special dispensation for certain in-service employees, who had obtained ITI qualification between July 01, 1972 and August 31, 1981 and who were already drawing the said benefit.

It is alleged that the Respondent No.1 neither applied for the benefit under SRO 149 nor approached any Court of law seeking such benefit, but managed to obtain entries in his service book and continued to draw the benefit until his retirement.

05. Aggrieved by the non-release of his pensionary benefits, the Respondent No.1 filed Writ Petition-WP (C) No. 1261/2023, titled '**Farooq Ahmad Zargar V. UT of J&K and Ors.**', seeking quashing of communication dated February 09, 2023 issued by the office of the Accountant General and for release of his pensionary benefits on the basis of last pay drawn. The Writ Court, vide Order dated July 24, 2024, allowed the Writ Petition and directed the Accountant General to authorize pension and other post-retiral benefits in favour of the Respondent No.1-Petitioner, in accordance with the pay fixed by the parent Department and further restrained the authorities from effecting any recovery from the Respondent No.1-Petitioner. This Order of the Writ Court has been assailed by the Appellants through the medium of the present appeal.

06. Heard and considered.

07. The principal contention urged by the Appellants before the Writ Court was that the issue relating to grant of benefit under SRO 149 of 1973 to the employees of the Government of Jammu & Kashmir was pending consideration before the Hon'ble Supreme Court and, therefore, till such time the matter was finally adjudicated, they could not extend the said benefit to the Petitioner-Respondent No.1 herein. The Writ Court rejected the aforesaid contention and held that mere pendency of a matter before the Hon'ble Supreme Court concerning grant of benefit under SRO 149 of 1973 cannot be a ground to deny the Petitioner-Respondent No.1 his pensionary benefits and further went onto observe that the inaction on the part of the Accountant General in not authorizing the pension of the Petitioner-Respondent No.1 in accordance with the recommendation of his parent Department was legally unsustainable.

08. The same contention has been urged before us in the present appeal that since the issue relating to the grant of benefit under SRO 149 of 1973 was pending consideration before the Hon'ble Supreme Court, therefore, the Petitioner-Respondent No.1 was not entitled to the said benefit.

09. Upon perusal of the record, it emerges that the matter which was relied upon by the Appellants already stands adjudicated by the Order passed by the Hon'ble Supreme Court in case titled '**The State of Jammu and Kashmir & Ors. v. Provincial Power Employees Union & Ors., Civil Appeal No (s). 7992 of 2022**', wherein, the Hon'ble Supreme Court, after considering the submissions advanced by the parties and examining the material placed on record, found no ground warranting interference with the Judgment passed by the Division Bench of the High Court of Jammu & Kashmir titled '**Provincial Power Employees Union of India v. State of J&K and Ors., SWP No. 809/2001 v. State of J&K and Ors.**' and, accordingly, dismissed the appeals on merits. While doing so, the Hon'ble Supreme Court rejected the challenge thrown by the Government of Jammu & Kashmir to the Judgment of the Division Bench of this Court, whereby the impugned Order dated May 12, 2016, by virtue of which the benefits earlier granted to the employees under SRO 149 of 1973 were withdrawn/ kept in abeyance, had been quashed. In the said Judgment passed by the Division Bench of this Court, which was upheld by the Hon'ble Supreme Court, the Court had further directed the Respondents to continue payment of salary to the Petitioners therein in the pay scale of Rs. 5000-8000 in cases where the said benefit had already been extended and further directed the Respondents to extend the benefit of the said revised pay scale to such Petitioners to whom the aforesaid benefit had not been extended, within a period of four months from the date of the Judgment, with effect from the date the same became due to them. The Division Bench had further held that in view of the law laid down by the Hon'ble Supreme Court in '**State**

of Punjab & Ors. V. Rafiq Masih, (2015) 4 SCC 334', recovery of excess payment cannot be affected from a Class-III employee or from an employee who has already superannuated. It was also observed that the benefit of SRO 149 of 1973 and the subsequent revised pay scales had already been extended to the employees of several departments such as the Geology and Mining Department and the Police Department who possessed Matriculation with ITI qualification and, therefore, denial of the same benefit to the Petitioners therein would be irrational, arbitrary and violative of Article 14 of the Constitution of India.

10. Therefore, all the issues raised by the Appellants in this appeal have been authoritatively dealt by the Division Bench of this Court while passing the Judgment in the batch of Writ Petitions in **Provincial Power Employees Union case (supra)**, against which the Appellants-State had filed SLP which stands dismissed by the Hon'ble Supreme Court, thereby upholding the Judgment passed by the Division Bench, thus, the issue has already attained the finality and same shall govern this appeal also. Accordingly, in the light of the aforesaid Order passed by the Hon'ble Supreme Court, the controversy sought to be raised in the present appeal no longer survives for adjudication before this Court. The appeal, therefore, does not merit any interference and, as such, the same shall stand **dismissed**. Interim direction(s), if any, shall stand vacated.

(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

SRINAGAR

March 12th, 2026

"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes/ No.